

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS

FARM CREDIT LEASING SERVICES CORPORATION

PLAINTIFF,

v. NO. 4:19-cv-19-280-KGB

TODD WELDON SMITH,

DEFENDANT

**DEFENDANT'S SECOND MOTION TO COMPEL**  
**WITH BRIEF INCORPORATED**  
**PURSUANT TO FRCP RULE 37**

Comes the Defendant, Todd Weldon Smith, and for his second motion to compel with brief incorporated pursuant to FRCP Rule 37, states:

**INTRODUCTION**

1. This motion is filed pursuant to Federal Rules of Civil Procedure (“FRCP”) Rule 37 and Local Rule 7.2(g).

2. Discovery under the Federal Rules of Civil Procedure (“FRCP”) “has been construed broadly to encompass any matter that bears on, or that reasonably could lead to other matters that could bear on, any issue that is or may be in this case.” *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978). Under this standard, the Rules envision and require open, far-reaching discovery. See *Lewis v. ACB Business Servs., Inc.*, 135 F.3d 389, 402 96<sup>th</sup> Circ. 1998) (citing *Mellon v. Cooper-Jarrett, Inc.*, 424 F.2d 499, 501 (6<sup>th</sup> Circ. 1970)).

3. FRCP 26(b)(1) provides that a party may obtain discovery “regarding any non-privileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case.” Fed. R. Civ. P. 26 (b) (1).

4. That Plaintiff answered Defendant’s second set of discovery. See Exhibit A.

5. That Defendant attempted to resolve the discovery dispute with Plaintiff’s counsel. However, Plaintiff’s counsel idea of meet and confer is for Defendant to compromise on relevant discovery requests and essentially reduce what Defendant seeks. Plaintiff is not playing by the same discovery rules as Defendant and all other litigants in Arkansas. Plaintiff has not provided one document yet expects Defendant to reduce what he seeks in discovery. See Exhibit B.

6. That Plaintiff should be ordered to answer without objection the discovery sent. The discovery is the same that Plaintiff sent to Defendant.

7. Pursuant to FRCP Rule 26 the information sought is non-privileged and will lead to information relevant to Defendant’s defense.

#### **BRIEF**

8. That the information sought in Interrogatory No. 1 is discoverable and will lead to discoverable material pursuant to FRCP Rul 26. Plaintiff has filed a claim in the criminal case of Charles Schindler for \$2,298,983.73. Part of the claim involves that Plaintiff is suing Defendant for. Defendant is entitled to see the documents between Plaintiff, Plaintiff’s counsel and the U.S. Attorney in Mississippi. Plaintiff does business with Delta Southern regarding Defendant. See Exhibit C. Defendant is entitled to this file and information.

9. Plaintiff should be ordered to answer Request No. 2 without objection. How is this information not discoverable pursuant to FRCP Rule 26? Plaintiff documents describing its losses regarding Defendant’s case. Defendant is entitled to this information along with the response of the

U.S. Attorney in Mississippi.

10. Plaintiff should be ordered to provide this information to Defendant. Defendant provided this information to Plaintiff. It is certainly discoverable.

11. Plaintiff should be ordered to answer Request No. 4. CoBank owns Plaintiff. Further, Plaintiff sent the same request to Defendant which has been answered. It is certainly discoverable.

12. Plaintiff should be ordered to answer Request No. 7. Either Plaintiff has pictures, document and communications it believes to be relevant or it doesn't. There are not any confidential documents. All were disclosed either to Defendant, the U.S. Attorney in Mississippi, or a third party. Plaintiff should be ordered to answer.

13. Plaintiff should be ordered to provide unconditionally to Defendant. There are no privileged documents because they were sent to a third party. Further, Plaintiff is playing a game of words. All information is relevant in discovery for this case. Plaintiff does not get to choose.

WHEREFORE, Defendant, Todd Weldon Smith, requests this Court grant his second motion to compel pursuant to FRCP Rule 37 with brief incorporated, and for all other proper relief.

Respectfully submitted,

John Ogles  
Arkansas Bar No. 89003  
Texas Bar No. 00797922  
OGLES LAW FIRM, P.A.  
200 S. Jeff Davis  
P.O. Box 891  
Jacksonville, AR 72078  
(501) 982-8339  
[jogles@aol.com](mailto:jogles@aol.com)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS**

Farm Credit Leasing Services Corporation,

Plaintiff,

v.

Todd Weldon Smith,

Defendant.

Case No.:4:19-cv-19-280-KGB

**PLAINTIFF FARM CREDIT LEASING SERVICES CORPORATION'S  
RESPONSES TO DEFENDANT'S SECOND SET OF DISCOVERY REQUESTS**

Plaintiff Farm Credit Leasing Services Corporation ("FCL") responds to Defendant Todd Weldon Smith's ("Defendant") Second Set of Discovery Requests as follows:

**REQUEST FOR PRODUCTION NO. 1:** Produce for copying and inspection all files and documents you have regarding Defendant, Delta Southern, and Charles Schindler including all criminal files and internal investigations.

**RESPONSE:** FCL objects to this request as overbroad, unduly burdensome, and seeking information that is irrelevant and/or not proportional to the needs of the case, in that it requests all files FCL has regarding Delta Southern and Charles Schindler, without limiting the request to documents related to Defendant or the transactions at issue in this litigation. FCL further objects to this request to the extent it seeks materials protected by the attorney/client privilege and/or work product doctrine. Also, FCL objects to the extent this request seeks confidential, proprietary information. Subject to and without waiving these objections, FCL will produce responsive, non-privileged documents related to the transaction at issue in this lawsuit.

**REQUEST FOR PRODUCTION NO. 2:** Produce for copying and inspection all files, documents and information received from any federal or state crime investigation or prosecution of Charles Schindler or anyone regarding Plaintiff's complaint but not limited to Plaintiffs complaint.

**RESPONSE:** FCL objects to this request to the extent it seeks materials protected by the attorney/client privilege and/or work product doctrine. In addition, FCL objects because the phrase "regarding Plaintiff's complaint but not limited to Plaintiffs complaint" is vague, ambiguous, and contradictory. Subject to and without waiving these objections, FCL will produce non-privileged, relevant documents responsive to this request.

**REQUEST FOR PRODUCTION NO. 3:** Produce for copying and inspection all text messages concerning Charles Schindler and Delta Southern.

**RESPONSE:** FCL objects to this request as overbroad, unduly burdensome, and seeking information that is irrelevant and/or not proportional to the needs of the case, in that it requests all text messages concerning Charles Schindler and Delta Southern, without limiting the request to text messages related to Defendant or the transactions at issue in this litigation. FCL further objects to this request to the extent it seeks materials protected by the attorney/client privilege and/or work product doctrine. Subject to and without waiving these objections, FCL is not aware of any text messages related to Defendant or the transactions at issue in this litigation in its possession, custody, or control.

**REQUEST FOR PRODUCTION NO. 4:** Produce for copying and inspection all communications between Plaintiff and Co Bank.

**RESPONSE:** FCL objects to this request as overbroad, unduly burdensome, and seeking information and material that is irrelevant and/or not proportional to the needs of

the case in that is seeks every communication between FCL and its parent company, CoBank, without any restriction as to the subject matter of the communications sought. Responding to this request as written would require review and production of a massive amount of documents that have no relevance to this case whatsoever. The request is also overbroad and unduly burdensome in that it is not limited to any particular time period that may be relevant to this litigation. FCL further objects to this request to the extent it seeks confidential, proprietary, and/or trade secret information and materials protected by the attorney/client privilege and work product doctrine. FCL will not produce any documents in response to this request.

**REQUEST FOR PRODUCTION NO. 5:** Produce for copying and inspection all documents and communications between Kisco Leasing Company, L. Tucker McCormick, Northland Capital, LLC, and Bank of the West.

**RESPONSE:** FCL is not aware of any responsive documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 6:** Produce for copying and inspection all pictures of the subject equipment regarding Plaintiffs complaint.

**RESPONSE:** FCL is not aware of any responsive documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 7:** Produce for copying and inspection all documents, communications, including any photographs you believe to be relevant to Plaintiff's claims.

**RESPONSE:** FCL objects to this request as duplicative of prior requests for production and to the extent it seeks FCL's confidential and/or proprietary documents.

**Over Defendant's objection, FCL has sought a protective order from the Court to protect the confidential and proprietary nature of such documents. FCL has collected and will produce relevant, responsive documents to this request upon the Court's ruling on its motion for protective order.**

**REQUEST FOR PRODUCTION NO. 8:** Produce for copying and inspection all documents you provided to or received from the Federal Bureau of Investigation, United States Attorneys' Office, or any other government or law enforcement agency regarding Delta Southern and/or Charles Schindler, any transactions involving Delta Southern and/or Charles Schindler, the lease agreements or equipment at issue in this lawsuit, or any of the facts and circumstances concerning the claims and defenses asserted in this lawsuit.

**RESPONSE:** FCL will produce non-privileged, relevant documents responsive to this request and relating to the transaction at issue in this lawsuit.

Dated: March 6, 2020

By: /s/ Julie Scheipeter

Andrew J. Scavotto, Admitted *Pro Hac Vice*  
Julie C. Scheipeter, Admitted *Pro Hac Vice*  
STINSON LLP  
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**ATTORNEYS FOR FARM CREDIT LEASING  
SERVICES CORPORATION**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing documents was forwarded to attorneys for Defendant this 6th day of March, 2020.

By: /s/ Julie Scheipeter  
Julie C. Scheipeter (Admitted Pro Hac Vice)

**ATTORNEYS FOR FARM CREDIT  
LEASING SERVICES CORPORATION**

**From:** Johnson Ogles <jogles@aol.com> **Case 4:19-cv-00280-KGB Document 28 Filed 03/10/20 Page 10 of 13**

**To:** andrew.scavotto <andrew.scavotto@stinson.com>; julie.scheipeter <julie.scheipeter@stinson.com>

**Cc:** hank.shelton <hank.shelton@arlaw.com>

**Subject:** Re: FCL v. Smith

**Date:** Mon, Mar 9, 2020 1:03 pm

All should be answered without objection. The objections are improper, especially since you sent the same to me.

John Ogles  
 Ogles Law Firm, P.A.  
 200 S. Jeff Davis Jacksonville, AR 72076  
 ph. 501.982.8339 fax 501.985.1403  
 Licensed in Ark, Texas, U.S. Tax Court and Supreme Court

-----Original Message-----

**From:** Scavotto, Andrew J. <andrew.scavotto@stinson.com>  
**To:** Johnson Ogles <jogles@aol.com>; Scheipeter, Julie C. <julie.scheipeter@stinson.com>  
**Cc:** hank.shelton@arlaw.com <hank.shelton@arlaw.com>  
**Sent:** Mon, Mar 9, 2020 12:59 pm  
**Subject:** RE: FCL v. Smith

John,

Our position is that FCL's responses and objections are proper. We're happy to meet and confer, but you'll need to explain which objections you're taking issue with, and what your specific issues are. That is impossible to determine from your email below.

Thanks  
 Andrew

**Andrew J. Scavotto**

Partner

STINSON LLP  
 7700 Forsyth Blvd., Suite 1100  
 St. Louis, MO 63105-1821  
 Direct: 314.719.3048 \ [Bio](#)

Assistant: Shelley Essary \ 314.259.4565 \ [shelley.essary@stinson.com](#)

**STINSON.COM**

**From:** Johnson Ogles <jogles@aol.com>  
**Sent:** Monday, March 9, 2020 12:57 PM  
**To:** Scheipeter, Julie C. <julie.scheipeter@stinson.com>  
**Cc:** Essary, Shelley J. <shelley.essary@stinson.com>; Scavotto, Andrew J. <andrew.scavotto@stinson.com>  
**Subject:** Re: FCL v. Smith

**External Email – Use Caution**

Your answers are in violation of the federal rules of discovery and should be answered without objection. You sent me the same discovery questions. I need to know tomorrow your position so I can file a motion to compel. The Judge might as well rule on all issues at once.

thanks

John Ogles  
 Ogles Law Firm, P.A.

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200 S. Jeff Davis Jackson, MS 39201-2700  
ph. 501.982.8339 fax 501.985.1403

Licensed in Ark, Texas, U.S. Tax Court and Supreme Court

-----Original Message-----

From: Scheipeter, Julie C. <[julie.scheipeter@stinson.com](mailto:julie.scheipeter@stinson.com)>  
To: 'John Ogles' <[jogles@aol.com](mailto:jogles@aol.com)>  
Cc: Essary, Shelley J. <[shelley.essary@stinson.com](mailto:shelley.essary@stinson.com)>; Scavotto, Andrew J. <[andrew.scavotto@stinson.com](mailto:andrew.scavotto@stinson.com)>  
Sent: Fri, Mar 6, 2020 4:10 pm  
Subject: FCL v. Smith

Counsel,

Attached please find FCL's Responses to Smith's Second Set of Discovery Requests.

Thank you,

Julie

**Julie C. Scheipeter**

Attorney

STINSON LLP  
7700 Forsyth Blvd., Suite 1100  
St. Louis, MO 63105-1821  
Direct: 314.259.4589 \ [Bio](#)

Assistant: Amanda Foley \ 314.259.4552 \ [amanda.foley@stinson.com](mailto:amanda.foley@stinson.com)

**STINSON.COM**

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DEFENDANT: Charles Schindler  
CASE NUMBER: 4:19CR00001-001

**ADDITIONAL RESTITUTION PAYEES**

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Farm Credit Leasing 7700 Forsyth Blvd., Ste. 1100 St. Louis, MO 63105	\$2,298,983.73		
Northland Capital 333 3 <sup>rd</sup> Avenue South St. Cloud, MN 56301		\$270,000.00	
Hardi c/o Adam Arceneaux, Attorney Ice Miller LLP One American Square, Ste. 2900 Indianapolis, IN 46282-0200		\$743,121.00	
DLL Finance P. O. Box 2000 Johnston, IA 50131		\$472,430.65	
Falcon Leasing 28 11 <sup>th</sup> Avenue South #103 St. Cloud, MN 56301		\$130,601.85	

